

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Durham Division

THOMAS H. KRAKAUER, on
behalf of a class of CASE NO: 14-CV-333
persons,

Plaintiff,

vs.

DISH NETWORK, LLC,
Defendant.

Deposition of Thomas H. Krakauer

(Taken by the Defendant)

October 14, 2014

At 11:07 p.m.

Reported by LeShaunda Cass-Byrd, CSR, RPR

TSG Job No: 84822

1 Thomas H. Krakauer

2 same price as Direct TV.

3 Q. So --

4 A. But the fact -- let me finish.

5 Q. Go ahead. I will.

6 A. The fact that he was able to impersonate me
7 and go on to my Direct TV account to find detailed
8 information about my business relationship with Direct
9 TV is what really set me off.

10 Q. Well, somehow, he was able to access your
11 Direct TV account?

12 A. He was able to access my Direct TV account,
13 and I can only presume it was because he had the last
14 four digits of my credit card. But he used that
15 information to access it, and I don't know exactly how
16 we managed that.

17 Q. So we know somehow this man -- it was a
18 man, right?

19 A. Yes.

20 Q. Accessed your Direct TV account, and you
21 could tell that by what he came back and said to you
22 about your account?

23 A. That is correct.

24 Q. Okay. You are presuming that he either, A,
25 impersonated you, or B, used the four digits of the

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2 would indicate that he was not.

3 Q. And you don't remember if you told Ken not
4 to call you back again, right?

5 A. I did not.

6 Q. All right. This call -- you didn't record
7 this call?

8 A. I did not.

9 MR. ZALUD: Give me a minute because

10 I'm busy making things shorter.

11 BY MR. ZALUD:

12 Q. So do you -- do you feel like you got
13 results from the actions that you took from calling
14 Direct TV and Dish TV? Did the problem go away?

15 A. Would you please specify what you mean by
16 problem? I have continued to get phone calls with the
17 same beginning, you know, I see you have been a
18 long-time client of Direct TV and I can save you some
19 money. I have continued to, you know, receive those
20 calls until September of 2011. Has anybody been able
21 to break into my Direct TV account? The answer is no.

22 Q. Do you have any theory or knowledge of why
23 the calls stopped when they did?

24 A. You mean in 2011?

25 Q. Yes.

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2 A. The last call came within weeks of the
3 attorney general's proceedings. I have no
4 recollection of any calls that I have received after
5 that time.

6 Q. All right. And how many calls between May
7 9th of 2009 and September -- whenever the last one
8 was -- in 2011, do you remember picking up the phone
9 and hearing the call?

10 A. It was numerous to the extent that in May
11 of 2010, I re-filed my number on the do-not-call
12 registry in the vain hope that that would stop it.
13 And when I said vain hope, it did not stop it. But I
14 received calls that I answered the phone and said I'm
15 not interested. All the calls started identically or
16 virtually identically. And either I was pleasant and
17 said I'm not interested and hung up, or I just hung
18 up, or the calls came when I was not there and the
19 call went to my voicemail and I hit the delete button
20 because after my first experience on May 9th, I had no
21 interest in pursuing this.

22 Q. How frequently would you get the calls,
23 like once a month, once a week?

24 A. I would speculate that it's closer to once
25 a week than once a month. And the reason I say that

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2 is that they must have been annoying enough that I
3 re-filed the other number on the do-not-call registry,
4 which I would not have done if they were once a month.

5 Q. So you believed that between May of 2009
6 and September of 2011, you got over a hundred of these
7 calls then, once a week, 52 times 2?

8 A. I really do not know the answer to that.

9 Q. And the longest conversation you had with
10 the calling person would be to say I'm not interested?

11 A. That is correct.

12 Q. And then did you hang up?

13 A. Yes, sir.

14 Q. Did you say good-bye?

15 A. I don't recall.

16 Q. And how many of those do you remember where
17 you actually answered?

18 A. I don't recall.

19 (Defendant's Exhibit 4 was marked for
20 identification.)

21 BY MR. ZALUD:

22 Q. So Dr. Krakauer, this is Exhibit 4. If you
23 take a look at that and you see at the bottom. Again,
24 there is these Bates stamp numbers that we call them.
25 Do you see that? So this is a document that was

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2 said?

3 A. They did not provide any information about
4 what the Dish Network services were. They merely told
5 me I could save money by switching. I did not pursue
6 it to the point that I asked for any information.

7 Q. And did they use the words Dish Network on
8 their call?

9 A. Yes, they did.

10 Let me clarify.

11 Q. Sure.

12 A. The caller did not identify himself at the
13 beginning of the call as being an employee either of
14 Direct TV or Dish Network. It was only at the --
15 towards the end of the call when he said that I could
16 save money by switching to Dish.

17 Q. And that was -- it was after he said that
18 that caused you to end the call?

19 A. Pretty much.

20 Q. And the other calls -- well, I need a
21 little clarification on like you said pretty much. Is
22 there anything --

23 A. Yes, I did. The call was ended at that
24 point.

25 Q. All right. And then the other calls you